

REMARKS

In reply to the Office Action dated June 2, 2004, reconsideration of the application is respectfully requested in view of the above amendments and the following remarks. Claims 12-13 and 17-19 are pending in the application with claims 12-13 and 18-19 under examination. By the above amendment, claims 12, 13, 17 and 19 have been canceled and claim 18 has been amended. The above amendment is not to be construed as acquiescence to the stated grounds for objection/rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application.

Applicants thank the Examiner for acknowledgement of the Information Disclosure Statements submitted October 15, 2001 and May 10, 2002. In the Office Action mailed June 2, 2004, the Examiner noted that the references cited on the IDS sent October 23, 20001 were not considered. While the references were submitted to and/or cited by the Patent and Trademark Office in prior applications, the Examiner indicated that the documents were not available. Accordingly, all references not considered are listed on pages 4-9 of enclosed Forms PTO-1449 (Third Supplemental Information Disclosure Statement), and a copy of each reference is *submitted herewith*. Additionally, Applicants disclose and would like to have officially considered the references listed on pages 1-3 of the attached forms PTO-1449 (copies enclosed).

As requested, Applicants have amended the specification to update the status of the parent applications. Applicants acknowledge the Examiner's assertion that priority is granted to Application No. 09/593,793, filed August 29, 2000, and note that priority will be revisited at the time specific claimed subject matter has been deemed allowable.

As also requested, sequence identifiers have been incorporated by amendment into the Brief Description of the Drawings for Figures 8, 9 and 11.

Claims Rejections under 35 U.S.C. § 112

Claims 12, 13, 18 and 19 stand rejected under 35 U.S.C. § 112, first paragraph, as subject matter which was not described in the specification in such a way as to enable one of skill in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. According to the Examiner, "the specification, while being enabling for a method for stimulating and/or expanding T-cells specific for the polypeptide consisting of SEQ ID NO:

525 *in vitro* comprising contacting T-cells with a polypeptide consisting of SEQ ID NO: 525, does not reasonably provide enablement for a method for stimulating and/or expanding T-cells specific for a prostate tumor protein comprising contacting T-cells with at least an immunogenic fragment of the polypeptide of SEQ ID NO: 525, wherein said fragment contains an amino acid sequence capable of stimulating a human T cell response..” (Action, Page 4)

Applicants respectfully traverse this rejection and submit that the claimed invention is indeed adequately enabled by the specification as filed and would be recognized as such by the artisan of ordinary skill. By the above amendment, claims 12, 13, 17 and 19 have been canceled and claim 18 has been amended to be drawn to an *in vitro* method for stimulating/expanding T-cells using one or more immunogenic fragments selected from (a) amino acid residues 110-124 of SEQ ID NO: 525; (b) amino acid residues 125-139 of SEQ ID NO: 525; (c) amino acid residues 135-149 of SEQ ID NO: 525; (d) amino acid residues 155-170 of SEQ ID NO: 525; and (e) amino acid residues 160-174 of SEQ ID NO: 525.

Applicants submit that the specification as filed is indeed enabling for a method for stimulating T-cells *in vitro* that are specific for SEQ ID NO: 525 using these claimed immunogenic fragments, particularly when the specification as filed indeed demonstrates experimentally that these claimed immunogenic fragments are capable of stimulating human T-cells *in vitro* (e.g., Example 10). Reconsideration of this rejection is respectfully requested.

Double Patenting Rejection

Claim 12 is rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claim 7 of U.S. Patent No. 6,613,872. According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other because they relate to the same inventive concept, that is a method for stimulating an immune response with at least an immunogenic fragment of SEQ ID NO: 525 which is capable of eliciting a human T cell response.

Applicants respectfully traverse this rejection. As discussed above, claims 12, 13, 17 and 19 have been canceled and claim 18 has been amended to relate to an *in vitro* method involving the use of at least an immunogenic fragment of a polypeptide consisting of SEQ ID NO: 525 selected from the group consisting of (a) amino acid residues 110-124 of SEQ ID NO: 525; (b) amino acid residues 125-139 of SEQ ID NO: 525; (c) amino acid residues 135-149 of

SEQ ID NO: 525; (d) amino acid residues 155-170 of SEQ ID NO: 525; and (e) amino acid residues 160-174 of SEQ ID NO: 525. Applicants respectfully submit that the disclosure by U.S. Patent No. 6,613,872 of a method for stimulating an immune response using a polypeptide having the amino acid sequence of SEQ ID NO: 172 cannot render obvious a method for stimulating/expanding T-cells using one or more of the immunogenic fragments now claimed by Applicants when the prior patent does not teach, suggest or identify these claimed immunogenic fragments. As methods of using these claimed immunogenic fragments are not described by the prior patent, claim 18 is not obvious over the prior patent. Accordingly, Applicants respectfully request reconsideration of the Examiner's obviousness-type double patenting rejection.

The Commissioner is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

All of the claims remaining in the application are now believed to be in condition for allowance. Favorable consideration is respectfully requested.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



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